

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUSTIN D. PORTER,

Plaintiff(s),

v.

STATE OF NEVADA, et al.,

Defendant(s).

Case No. 2:17-cv-02719-JCM-NJK

ORDER

Plaintiff is proceeding in this action *pro se*, and submitted a complaint in an effort to initiate this case. Docket No. 1. Plaintiff has not, however, submitted the required filing fee or requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*. In order to proceed with his case, Plaintiff must either pay the filing fee or submit the affidavit required by § 1915 showing an inability to prepay fees and costs or give security for them.

Moreover, it does not appear that the claims advanced by Plaintiff are properly made in federal court. It appears that Plaintiff has been convicted of murder, and is serving a lengthy prison term. Docket No. 1-1 at 7. It also appears that the state is in the process of prosecuting Plaintiff on additional charges. *See, e.g., id.* at 8-9. Plaintiff's claims appear to relate to the state courts' recent denial of a pre-trial motion and appeal thereto, *id.* at 9, and allegedly ineffective assistance of counsel being provided to Plaintiff, *see id.* at 10-11. Plaintiff seeks an order finding the state courts have erred, and further dismissing the criminal complaints against him. *See id.* at 12. The jury trial in Plaintiff's criminal case is currently set for November 13, 2017. *See* <https://www.clarkcountycourts.us> (last visited on October 27, 2017); *see*

1 also *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99 (9th Cir. 2010) (courts may take judicial
2 notice of information on government websites). It is well settled that a federal district court does not have
3 appellate jurisdiction over a state court, whether by direct appeal, mandamus, or otherwise. *See, e.g.*,
4 *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir.
5 2003). Moreover, the United States Supreme Court has long made clear that absent extraordinary
6 circumstances, federal courts must not interfere with pending state criminal prosecutions even when they
7 raise issues of federal rights or interests. *See, e.g., Younger v. Harris*, 401 U.S. 37, 44 (1971). As such,
8 Plaintiff's claims appear to be subject to dismissal.

9 Accordingly, **IT IS ORDERED:**

- 10 1. Plaintiff shall either make the necessary arrangements to pay the filing fee, accompanied by
11 a copy of this order, or file an Application to Proceed *in Forma Pauperis*, no later than
12 November 16, 2017.
- 13 2. The Clerk of the Court shall send Plaintiff a blank application form.
- 14 3. Plaintiff shall show cause in writing, no later than November 16, 2017, why this case should
15 not be dismissed for the reasons outlined above.
- 16 4. Failure to comply with this order will result in a recommendation to the District Judge that
17 this case be dismissed.

18 Dated: October 30, 2017

19 
20 _____
NANCY J. KOPPE
United States Magistrate Judge